

**IN THE UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF MONTANA**

**BILLINGS DIVISION**

<b>PAUL EDWARD SCHMALTZ, and</b>	)	<b>CV-06-89-BLG-RFC</b>
<b>PATRICIA LYNN SCHMALTZ</b>	)	
	)	
<b>Plaintiffs,</b>	)	
<b>vs.</b>	)	
	)	<b>ORDER ADOPTING FINDINGS</b>
<b>CAROL ANDERSON, and GLENN</b>	)	<b>AND RECOMMENDATION OF</b>
<b>ANDERSON,</b>	)	<b>U.S. MAGISTRATE JUDGE</b>
	)	
<b>Defendants.</b>	)	
	)	

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On August 15, 2006 United States Magistrate Judge Richard W. Anderson entered his Findings and Recommendation. Magistrate Judge Anderson found that Plaintiffs failed to comply with his July 24, 2006 Order directing them to show cause why their case should not be dismissed for lack of subject matter jurisdiction. Because Plaintiffs failed to do so, Magistrate Judge Anderson recommended this action be dismissed for want of jurisdiction and for failure to comply with court orders.

On August 17, 2006, Magistrate Judge Anderson received a document submitted by Plaintiffs entitled "Actual Notice of Fault, Default and Default Judgment Regarding Failure to Respond to Declaration of Truth Regarding Certificates of Service, Certificates of Mailing and Diversity of Citizenship." Because that document did not include a proper certificate of service, Magistrate Judge Anderson directed the Clerk of Court to return the document to Plaintiffs.

*Order dated August 18, 2006, Doc. 9-1.*

Also on August 18, 2006, Magistrate Judge Anderson issued an Order and Supplemental Findings and Recommendations of United States Magistrate Judge, which ordered the Clerk of Court to file a document submitted by Plaintiffs entitled "Declaration of Truth Regarding Certificates of Service, Certificates of Mailing and Diversity of Citizenship." Magistrate Judge Anderson stated that this document was a response to his July 24, 2006 Order, but was an insufficient response because it did not demonstrate that the parties were citizens of different states. Accordingly, Magistrate Judge Anderson restated his previous recommendation that Plaintiff's complaint be dismissed for lack of subject matter jurisdiction.

Upon service of a magistrate judge's findings and recommendation, a party has 10 days to file written objections. 28 U.S.C. § 636(b)(1). In this matter, Plaintiffs filed objections on August 18, 2006. Contrary to Plaintiffs' assertions, they are not foreign states as defined in 28 U.S.C. 1603. After a *de novo* review, the Court determines the Findings and Recommendation dated August 15, 2006 and the Supplemental Findings and Recommendations dated August 18, 2006 of Magistrate Judge Anderson are well grounded in law and fact and **HEREBY ORDERS** they be adopted in their entirety.

Accordingly, **IT IS FURTHER ORDERED** that Plaintiff's Complaint (*Doc. 1*) is **DISMISSED**.

The Clerk of Court shall notify the parties of the making of this Order and close this case accordingly.

DATED this 30th day of August, 2006.

/s/ Richard F. Cebull  
RICHARD F. CEBULL  
UNITED STATES DISTRICT JUDGE